

REMARKS

Claims 1, 14-17, 19, 21-23, 38 and 54-77 were in the application.

Claims 1 –77 have been subject to a requirement for elections of species.

It is asserted that the pending claims are directed to more than one species of a generic invention and that the species lack unity of invention because they are not linked as to form a single general inventive concept.

Claim 1 is asserted to set forth nine species, enumerated in the claim and on page 4 of the Official Action. It is asserted that the species are patentably distinct because they are different proteins encoded by different genes and they have different functions. Applicant is required to elect a species set forth in claim 1 for initial examination.

Claim 77 is asserted to set forth one hundred and fifteen species, enumerated in the claim and in the paragraph bridging pages 4 and 5 of the Official Action. It is asserted that the species are patentably distinct because they are different proteins encoded by different genes and they have different functions. Applicant is required to elect a species set forth in claim 77 for initial examination.

Regarding the election of species in claim 1, Applicants provisionally elect the species “cytokines” set forth in claim 1 with traverse. Applicants respectfully note that while each species is patentably distinct from the other species, they are not linked as to form a single general inventive concept. Claim 1 refers to nucleic acid molecules that comprise nucleic acid sequences that encode a fusion protein which comprises an IgE signal peptide linked to a non-IgE protein. Thus, the nucleic acid molecules encode fusion proteins with the common feature of having both an IgE signal peptide and a non-IgE protein region.

Regarding the election of species in claim 77, Applicants provisionally elect the species “IL-15” set forth in claim 77 with traverse. Applicants respectfully note that while each species is patentably distinct from the other species, they are not linked as to form a single general inventive concept. Claim 77 refers to nucleic acid molecules that comprise nucleic acid sequences that encode a fusion protein which comprises an IgE signal peptide linked to a non-

IgE protein. Thus, the nucleic acid molecules encode fusion proteins with the common feature of having both an IgE signal peptide and a non-IgE protein region.

If either the requirement of election of species with regard to claim 1 or the requirement of election of species with regard to claim 77 or both are maintained, Applicants note that upon finding an elected species patentable, the Office will examine the generic claim, and upon finding a generic claim patentable, additional claims that are dependent upon the generic claim and are directed to non-elected species will be considered.

Claims 1, 14-17, 19, 21-23, 38 and 54-77 are in condition for allowance. A notice of allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully Submitted,

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Dated: November 4, 2009

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